

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, September 21, 2004
Tuesday, 9:08 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Dr. Michael Chittum, Plymouth Congregational Church, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the September 14, 2004, Meeting were approved 7 to 0.

AWARDS AND PRESENTATIONS:

Recognition	Mayor Mayans recognized and welcomed Lt. Governor John Moore.
Henan Province, China	<u>Recognition of Children's Art Troupe from Henan Province, China.</u> Mayor Mayans recognized and welcomed the Children's Art Troupe from Henan Province, China and presented each member a certificate of recognition and a city pin.
2004 SAVY Award	Mayor Mayans recognized and congratulated the City/County Communications & Marketing Association for the "Ditch the Drive Campaign."
Proclamations	Proclamations were previously submitted.

CONSENT AGENDA

Motion-- --carried	Mayans moved that Item 12, Amendments to Salary and Position Classification Ordinance, be deferred. Motion carried 7 to 0.
Motion-- -- carried	Mayans moved that the Consent Agenda, except Item 12, be approved as presented. Motion carried 7 to 0.

BOARD OF BIDS**REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED SEPTEMBER 20, 2004.**

Bids were opened September 17, pursuant to advertisements published on:

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

Water distribution system east of Broadway, north of 37th Street South. (448-89924/635654/ 764708). Traffic to be maintained during construction using flagpersons and barricades. (District III)

Nowak Construction - \$180,516.00

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Lateral 2, Main 21 Southwest Interceptor Sewer to serve Gray's 5th Addition - north of 37th Street South, east of Hoover. (468-83431/744084/480772) Does not affect existing traffic. (District IV)

Duling Construction - \$86,045.00

Water distribution system to serve Gray's 5th Addition - north of 37th Street South, east of Hoover. (448-89681/735215/470885) Does not affect existing traffic. (District IV)

Wilks Underground - \$61,902.25

Water distribution system to serve Shady Ridge Addition - south of Central, east of Ridge. (448-89978/735204/470874) Does not affect existing traffic. (District V)

Nowak Construction - \$19,346.00

Shady Court, serving Lots 26 through 36, Block 1, from the west line of Shady Lane to and including the cul-de-sac to serve Shady Ridge Addition - south of Central, east of Ridge. (472-84051/765888/490001) Does not affect existing traffic. (District V)

Ritchie Paving - \$58,323.00 (Negotiated to Engineer's estimate)

Storm Water Sewer #533 to serve Regency Park Addition - south of 29th Street North, west of Greenwich. (468-83066/751375/485266) Does not affect existing traffic. (District II)

Utility Contractors - \$95,715.00

28th Street North from the west line of Lot 4, Block 1, to the west line of Greenwich Road to serve Regency Park Addition - south of 29th Street North, west of Greenwich. (472-83803/ 765895/490008) Does not affect existing traffic. (District II)

Kansas Paving Company - \$65,340.00

Lateral 5, Main 13 Four Mile Creek Sewer to serve Hawthorne Third Addition - north of 21st Street North, east of 127th Street East. (468-83870/744083/480771) Does not affect existing traffic. (District II)

Dondlinger & Sons - \$58,106.00

Motion--

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

WATER & SEWER DEPARTMENT/PRODUCTION & PUMPING DIVISION: Powered Activated Carbon.

Meadwestvaco Corp. - \$1,134,000.00*

*Estimate – Contract approved on unit cost basis; refer to attachments.

Motion--

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

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LICENSES

APPLICATION FOR LICENSES FOR ADULT ENTERTAINMENT ESTABLISHMENTS /SERVICES:

Renewal Adult Entertainment

Norman Massey Jr. ZigeFields 4200 West Kellogg Drive

New Escort Service

Nancy Scrivner Angel Inc. 333 English Suite #100

Motion--
--carried

Mayans moved that the licenses, subject to Staff review and approval, be approved. Motion carried 7 to 0.

PRELIMINARY ESTS. PRELIMINARY ESTIMATES:

- a) 3rd Street water main Improvements - along 3rd Street from the Little Arkansas River to Santa Fe. (448-89816/634030/773201) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - \$2,000,000.00
- b) 2004 contract maintenance area concrete street repairs Phase 4 - north of Pawnee, east of West Street. (472-83915/132716/) Traffic to be maintained during construction using flagpersons and barricades. (District III, IV) - \$325,500.00
- c) Lateral 371 Four Mile Creek Sewer to serve Savanna at Castle Rock Ranch 10th Addition - north of 13th Street North, west of 143rd Street East. (468-83845/744071/480759) Does not affect existing traffic. (District II) - \$105,500.00
- d) Lateral 1, Main 6, Cowskin Interceptor Sewer to serve Turkey Creek Addition - north of Pawnee, west of 119th Street West. (468-83818/744079/480767) Does not affect existing traffic. (District V) - \$274,000.00
- e) Water distribution system to serve Turkey Creek Addition - north of Pawnee, west of 119th Street West. (448-89961/735213/470883) Does not affect existing traffic. (District V) - \$127,000.00
- f) Water distribution system to serve Savanna at Castle Rock Ranch 10th Addition - north of 13th Street North, west of 143rd Street East. (448-89985/735208/470878) Does not affect existing traffic. (District II) - \$47,500.00
- g) Linwood Park Tennis and Basketball Court Rehabilitation - north of Mt. Vernon, and east of Hydraulic. (472-84046/785041/394173) Does not affect existing traffic. (District I) - \$215,000.00
- h) 2004-2005 CDBG; street, curb, gutter and sidewalk improvements (Asphalt Repairs) - north of 31st Street South, east of Hillside. (472-83904/602551/800402/010111) Traffic shall be maintained during construction using flagpersons and barricades. (District III) - \$191,276.60
- i) 13th Street North to serve Liberty Park 2nd and Copper Gate Estates Additions - south of 13th Street North, east and west of 135th Street West) (472-83880/765855/490966) 13th Street North shall be closed to thru traffic during construction. (District V) - \$111,028.00
- j) 2004-2005 Traffic Signalization Program, Phase II: Install traffic signals at 37th Street North & Rock Road (472-84066/706911/204377) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$124,830.00
- k) 2004-2005 Traffic Signalization Program, Phase II: Install traffic signals at 29th Street North & Oliver (472-84067/706911/204377) Traffic to be maintained during construction using flagpersons and barricades. (District I) - \$96,500.00

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- l) 2004 Contract Maintenance Area Concrete Street Repairs, Phase 5 - north of Maple, east of West Street. (472-83916/132716/) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - \$351,750.00
- m) Manchester from the north line of 37th Street North to the north line of Lot 3, Block 3; Waterside from the west line of Manchester to the west line of Lot 11, Block 4; Waterside Courts (3) adjacent to Lots 1 through 29, Block 1; Sidewalk along the north side of Waterside from Manchester to the west line of Lot 11, Block 4, along the east side of Manchester from the north line of 37th Street North to Waterside and the west side of Manchester from Waterside to the north line of Lot 33, Block 4 to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (472-84023/765897/490010) Does not affect existing traffic. (District V) - \$406,390.00
- n) Storm Water Drain #231 to serve Prairie Pointe Addition - north of 37th Street North, west of Maize. (468-83810/751376/485267) Does not affect existing traffic. (District V) - \$575,000.00
- o) Lateral 500 Southwest Interceptor Sewer to serve Shady Ridge Addition - south of Central, east of Ridge. (468-83837/744068/480756) Does not affect existing traffic. (District V) - \$47,000.00
- p) Lateral 35 Cowskin Interceptor Sewer to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (468-83596/744080/480768) Does not affect existing traffic. (District V) - \$336,000.00
- q) Lateral 447 Southwest Interceptor Sewer to serve Village Charters 2nd Addition - north of 21st Street North, east of Tyler. (468-83089/744077/480765) Does not affect existing traffic. (District V) - \$30,000.00
- r) Storm Water Sewer #608 to serve Evergreen and Newmarket Square Additions - north of 21st Street North, west of Maize. (468-83827/751373/485264) Does not affect existing traffic. (District V) - \$157,000.00
- s) 2004 Sanitary Sewer Reconstruction, Phase 11 - north of MacArthur, between Meridian and Woodlawn. (468-83891/620416/664536) Traffic to be maintained during construction using flagpersons and barricades. (Districts II, III, IV, VI) - \$281,000.00

Motion--carried

Mayans moved that the Preliminary Estimates be received and filed. Motion carried 7 to 0.

DEEDS/EASEMENTS DEEDS AND EASEMENTS:

- a) Utility Easement dated August 24, 2004 from Integrated Healthcare Systems Inc., for tracts of land located in Lot 1, Block 1, Wichita Clinic Addition, an addition to Wichita, Sedgwick County, Kansas (Private Project, OCA#607861). No cost to City.
- b) Utility Easement dated July 26, 2004 from Dewitt Land Co., Inc. for tracts of land located in Lot 5, Block 3, Burnham Industrial Addition to Wichita, Kansas (L13, M14, SWI, OCA#744041). No cost to City.
- c) Utility Easement dated August 4, 2004 from Ronald L. and Miki M. Mires for a tract of land located in Lot 8, block 3, Burnham Industrial Addition to Wichita, Kansas (L13, M14, SWI, OCA#744041). No cost to City.
- d) Utility Easement dated August 25, 2004 from Ben James and Patricia Darlene Mires, Husband and Wife for a tract of land located in Lot 7, block 3, Burnham Industrial Addition to Wichita, Kansas (L13, M14, SWI, OCA#744041). No cost to City.
- e) Utility Easement dated August 25, 2004 from Ben James and Patricia Darlene Mires, Husband and Wife for a tract of land located in Lot 6, block 3, Burnham Industrial Addition to Wichita, Kansas (L13, M14, SWI, OCA#744041). No cost to City.

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f) Utility Easement dated August 31, 2004 from Coxco for tracts of land in Lots 1,2,4,5,6,7,8 and Reserve B, Zoo Business Park, Wichita, Sedgwick County, Kansas (M20, SWI, OCA# 744056). No cost to City.

g) Sanitary Sewer Easement dated August 31, 2004 from Coxco for a tract of land in Lot 11, Zoo Business Park, Wichita, Sedgwick County, Kansas (M20, SWI, ICA# 744056). No cost to City.

h) Sanitary Sewer Easement from the City of Wichita, Kansas, a Municipal Corporation for a tract of land located in the Northwest Quarter of Section 11, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County Kansas (M20, SWI, OCA#744056). No cost to City.

i) Utility Easement from the City of Wichita, Kansas, a Municipal Corporation for a tract of land located in the Southeast Quarter of Section 33, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas (1059 PPW, OCA#607861). No cost to City.

j) Sanitary Sewer Easement from the City of Wichita, Kansas, a Municipal Corporation for a tract of land located in the Southeast Quarter of Section 33, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County Kansas (1059 PPW, OCA# 607861). No cost to City.

Motion--carried Mayans moved that the Deeds and Easements be accepted. Motion carried 7 to 0.

127TH STREET EAST PAVE 127TH STREET EAST FROM PAWNEE TO MT. VERNON. (DISTRICT II)

Agenda Report No. 04-0919

On March 16, 2004, the City Council approved a Petition to pave 127th Street East, between Pawnee and Mt. Vernon. A new Petition has been submitted to include additional tracts that benefit from the paving project. The signatures on the new Petition represent 100% of the improvement district.

The project will serve new residential developments located along 127th Street East, between Pawnee and Mt. Vernon.

The project budget is unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-517

Resolution of findings of advisability and Resolution authorizing improving 127th Street East, from the north line of Pawnee to the north line of Sierra Hills, an addition to Wichita, Sedgwick County, Kansas, 472-83964, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

REED'S COVE STORM WATER DRAINS IN REED'S COVE, REED'S COVE 2ND, REED'S COVE 3RD AND REED COMMERCIAL ADDITIONS, SOUTH OF 21ST, EAST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 04-0920

On July 15, 2003 and April 20, 2004, the City Council approved Petitions to construct two storm water drains for Reed's Cove, Reed's Cove 2nd, Reed's Cove 3rd and Reed Commercial Additions. The developer has submitted new Petitions to reallocate special assessments within the lots he owns in the improvement districts. The signatures on the Petitions represent three of twenty-three resident owners

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and 95.2% of the improvement district area. There is no change to the assessments for the lots owned by the non-signers.

The projects serve a new residential and commercial development located south of 21st, east of 127th Street East.

The project budgets are unchanged.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petitions be approved and the Resolutions adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-518

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Drain No. 204, 468-83625, (south of 21st Street, east of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-519

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 230, 468-83800, (south of 21st Street, east of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

STREET CLOSURES CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures to consider.

ASSESS. ROLLS PROPOSED ASSESSMENT ROLLS.

Proposed Assessment Rolls have been prepared for thirty-four (34) water projects, thirty-six (36) sewer projects and fifteen (15) storm sewer projects and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 11, 2004.

Motion--

Mayans moved that the hearing on the proposed assessment rolls be set for 9:30 a.m., Tuesday, October 19, 2004, and that the notices of hearing be published at least once, not less than 10 days prior to the date of the hearing. Motion carried 7 to 0.

--carried

COWSKIN CREEK COWSKIN CREEK PUMP STATION REHABILITATION-SUPPLEMENTAL. **(DISTRICT IV)**

Agenda Report No. 04-0921

On February 12, 2001, Professional Engineering Consultants (PEC) was retained to perform and evaluation of deficiencies in the Cowskin Creek Pump Station. PEC found a number of major problems and on October 2, 2001, the City approved a contract with PEC to develop specifications for the rehabilitation of Cowskin Creek Pump Station. The rehabilitation included new pumps, control system, variable frequency drives, air handling and compressed air system. The rehabilitation work was performed by Dondlinger & Sons and completed in early 2004. This pump station is located on Tyler Road just south of Pawnee and serves a large portion of west and southwest Wichita.

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Following completion of the rehabilitation, City Staff continued to note performance problems with the pump station. Staff believes these problems are associated with the 24" force main, which comes out of the pump station and crosses under Mid-Continent Airport. In order to verify the source of the problem and determine the best course of corrective action, Staff recommends that additional engineering work be performed. This would include: 1) verification of flow rates from the pump station, 2) evaluation of pump performance at varying flow rates, 3) evaluation of force main profile and inspection at key points, 4) investigation of cleaning methods, and, 5) develop specifications for cleaning stations and rehabilitation of force main. As PEC is familiar with the pump station and currently has a contract, which allows for supplemental agreements, Staff believes PEC is the best choice to perform this work.

The October 2, 2001 agreement with PEC was for \$94,502. The proposed supplemental agreement is for \$40,010. The project has been funded from CIP project S-540, which has a budget of \$1.3 million. S-540 has an unencumbered balance of \$427,968. The work will be funded by utility revenues and/or a future bond issue.

Motion--
--carried

Mayans moved that the supplemental agreement with PEC for \$40,010 be approved and the necessary signatures authorized. Motion carried 7 to 0.

CHENEY WATERSHED

CHENEY WATERSHED SAMPLING-U.S. GEOLOGICAL SURVEY.

Agenda Report No. 04-0922

Cheney Reservoir is a major water supply source for the City of Wichita, providing approximately 60 percent of Wichita's annual water supply. On May 7, 1996, City Council approved agreements with the U.S. Geological Service (USGS) and the Bureau of Reclamation (BOR) to begin a five-year program to perform water quality analysis at various sites throughout the watershed. On Sept. 12, 2000, City Council approved a Joint Funding Agreement with the USGS to continue a sampling program, but at a reduced scope from the previous program.

The objective of the project, begun in 1996, was to develop a comprehensive water quality database for nutrients, total suspended sediment, and herbicides throughout the watershed. The project that is underway is to collect data that can be used to determine the chemical loading into and out of Cheney Reservoir, to identify chemical loadings within the watershed, and to evaluate the effectiveness of the various improvements that are completed in the watershed.

The USGS is proposing that the existing program be terminated one year early, and that the Joint Funding Agreement be modified. The purpose of the new project would be directed more towards reservoir management and the development of data that could be used to define the correlation between nutrients in the reservoir, and the growth of algae and subsequent taste and odor events, as well as monitor the impact of watershed improvements. The USGS will do most of the sampling and analysis, but some of the work will be done by the Water & Sewer Department laboratory.

The total cost of the project will be \$798,900 over a six-year period from fiscal year 2005 through fiscal year 2010. The USGS will fund 46 percent of the project costs with the City funding 54 percent, plus the cost of the laboratory work. Funding for the City's share of expenses will come from Cheney Watershed Protection Plan (CIP W-500) that has an annual authorization of \$200,000 for cost-sharing water quality improvement projects in the watershed. Modification of the Joint Funding Agreement will reduce the City's share by \$32,000. Costs will be allocated as follows:

	FY 2005	FY2006	FY2007	FY2008	Y2009	FY2010	TOTAL
Total Costs	\$132,900	\$113,400	\$118,100	\$123,000	\$148,100	\$163,400	\$798,900
City Costs	\$ 72,900	\$ 62,400	\$ 65,100	\$ 68,000	\$ 78,100	\$ 83,400	\$429,900
USGS Funds	\$ 60,000	\$ 51,000	\$ 53,000	\$ 55,000	\$ 70,000	\$ 80,000	\$369,000

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City Council approval is required for Agreements of \$10,000 or more.

Motion-- Mayans moved that the Joint Funding Agreement with the U.S. Geological Survey be approved; the Amendment to the Joint Funding Agreement be approved and the necessary signatures authorized.
--carried Motion carried 7 to 0.

FOOD SERVICE

FOOD SERVICE ESTABLISHMENT INSPECTION CONTRACT WITH THE KANSAS DEPARTMENT OF AGRICULTURE.

Agenda Report 04-0923

The Environmental Health Department has conducted inspections of food service establishments within Sedgwick County on behalf of the Kansas Department of Health and Environment for over twenty-five years. During the recent legislative session, responsibility for food service establishments located within retail grocery stores was transferred to the Kansas Department of Agriculture. KDA has proposed a contract for inspection of the establishments involved, running to the end of state fiscal year 2005, June 31, 2005.

Contract inspections by local agencies reduce duplication of effort, provide a single source of contact for industry and citizens, and contribute substantially to local food protection budgets. The City's Staff will enforce state regulations and utilize state enforcement mechanisms as appropriate. KDA will provide administrative and training support. Activities under the KDA contract will mirror those under the previous agreement with KDHE.

KDHE remits eighty percent of license revenue (as established by statute) to the City; Staff estimates the value of the contract at \$30,000 to \$35,000 annually. This amount does not represent new revenue, but replaces funds previously received from KDHE.

Motion-- Mayans moved that the contract with the Kansas Department of Agriculture be approved and the necessary signatures authorized. Motion carried 7 to 0.
--carried

BOATHOUSE

CONTRACT FOR BUILDING ATTENDANT-UNARMED SECURITY OF THE WICHITA BOATHOUSE.

Agenda Report 04-0924

The City Council had previously approved PSI, Professional Security, Inc. to provide unarmed security services for the Wichita Boathouse at the April 6, 2004 City Council meeting. The vendor has notified the City of Wichita that they can no longer continue services as required in the specifications and contract.

The proposals, which were received in October 2003, were re-evaluated by staff committee and recommend the next vendor based on the pricing and ability to provide unarmed security services that will meet the level of service per the specifications of the proposal.

The contract will be for a period of one (1) year, with options to renew under the same terms and conditions for one (1) or two (2) one (1) year periods by mutual agreement of both parties.

Estimated cost of yearly contract not to exceed \$16,000. Sufficient funds are budgeted for 2004 in the Wichita Boathouse budget.

The Law Department will approve the contract as to form.

Motion-- Mayans moved that the award of the contract to Smart Security and Investigations, Inc. to provide Unarmed Security Services for the Wichita Boathouse be approved and the necessary signatures authorized. Motion carried 7 to 0.
--carried

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CAPITAL FEDERAL SAVINGS

COLLATERAL AGREEMENT WITH CAPITAL FEDERAL SAVINGS.

Agenda Report No. 04-0925

State statutes require financial institutions that receive city deposits in excess of the FDIC insurance limit to collateralize the deposit. Sound management practice dictates the collateral be placed in a third party financial institution where the depository cannot gain control of the securities. The City's investment policy requires a collateral agreement to be put in place to govern the handling of the securities and define the terms and conditions for replacing and changing title to the securities.

Capital Federal Savings exceeds the selection requirements for a depository as outlined in the City's investment policy. They would like to accept additional funds when available.

Time and demand deposits with local financial institutions are a viable investment for City idle funds. Capital Federal Savings will be required to offer rates of return competitive with other investments of similar maturities.

Motion--
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

UNDERCOVER VEH.

PURCHASE OF A 2003 MERCURY MOUNTAINEER FOR POLICE DEPARTMENT UNDERCOVER INVESTIGATION PURPOSES.

Agenda Report No. 09-0926

During the course of a narcotics investigation, a 2003 Mercury Mountaineer was seized under federal asset forfeiture guidelines and subsequently forfeited to the department. The vehicle had a lien of \$10,563.85 that is required to be paid off.

This is a 2003 vehicle with 31,426 miles. The N. A. D. A. Official Used Car Guide lists the current retail value as \$20,975.00 and the trade in value as \$17,950.00. The department is procuring the vehicle for approximately half of the listed value. At the current rate of fleet utilization by the undercover section, this vehicle should remain in the inventory for at least seven years. Upon removal the vehicle will be sold at auction with the proceeds returning to the narcotic seizure budget. The department believes this is a financially prudent expenditure.

Funds are budgeted in the narcotic seizure budget for the purchase of undercover vehicles. There is current balance of \$19,952.66 in this budget.

This forfeiture action was adopted by the Drug Enforcement Administration and completed by the United States Department of Justice.

Motion--carried

Mayans moved that the expenditure of funds be approved. Motion carried 7 to 0.

(Item 12) SALARY/POSITION

AMENDMENTS TO SALARY AND POSITION CLASSIFICATION ORDINANCE.

This Item was deferred.

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OCI BUDGET

OFFICE OF CENTRAL INSPECTION BUDGET ADJUSTMENT.

Agenda Report No. 04-0928

In order to complete the demolition and removal of several dangerous buildings that have been condemned and ordered removed by the City Council, and to initiate and pay for asbestos surveys and removal for properties on which a condemnation order is anticipated in October and November 2004, the Office of Central Inspection estimates that an additional \$25,000 will be required in its approved condemnation/contractual service budget.

The request is necessitated for several reasons: (1) a larger number of ordered condemnation/demolition contracts in 2004 than anticipated; (2) the need to perform several more emergency demolitions this year than in previous years due to a larger number of significant, uninsured house fires; and (3) increased costs of asbestos surveys and asbestos abatement.

The transfer of \$25,000 from the approved OCI personnel budget into the OCI condemnation/contractual services budget will assure demolition and removal of dangerous structures that have been or will soon be ordered demolished by the City Council. The additional funding will also allow OCI to continue processing of cases that are scheduled for hearings before the Board of Code Standards and Appeals and/or the City Council during the last quarter of 2004.

This budget request has been reviewed and recommended by OCI's Finance Department Budget Analyst. The requested \$25,000 transfer from the approved 2004 OCI personnel budget into the approved 2004 OCI condemnation/contractual services budget will not increase the overall approved 2004 OCI budget.

This budget adjustment will maintain compliance with City Council Resolution No. R-95-560, specifically as it relates to the 20% cap on OCI expenditures for demolition and housing enforcement costs (as a percentage of overall annual OCI expenditures).

Motion--

Mayans moved that the transfer of \$25,000 from the approved 2004 Office of Central Inspection personnel budget into the approved 2004 Office of Central Inspection dangerous building condemnation/contractual services budget be approved. Motion carried 7 to 0.

--carried

VIA CHRISTI

RELEASE OF ESCROW FUNDS, VIA CHRISTI HEALTH SYSTEM, INC.

Agenda Report 04-0929

In 1973, the City of Wichita issued Hospital Facilities Revenue Bonds to finance facilities for the benefit of St. Joseph Medical Center. The Bonds were later defeased by a cash escrow. On August 27, 2004, the City of Wichita received notice from Via Christi Regional Medical Center, Inc. ("VCRMC") requesting the remaining funds of \$380.42 in the escrow account be released and returned to VCRMC (successor to the original obligor), due to final payment of the last 1973 Bonds.

On July 1, 2004, the Hospital Revenue Bonds Series A, 1973 bond were called in full, per a mandatory redemption. The call was funded from the money held under an Escrow Agreement dated October 1, 1985. Section 15 of the Agreement, states that any excess of funds in the account after all bonds are paid must be paid to the Hospital as its absolute property and free from the trust created by the Indenture and the Escrow Deposit Agreement and the Bond Trustee. The request is to come from the City as Issuer, as directed from the Hospital.

There is no financial impact to the City resulting from the request.

The City Attorney's office has approved of the request.

Motion--

Mayans moved that the Staff approve the release of escrow funds to Via Christi Regional Medical Center, Inc. and authorize the necessary signatures. Motion carried 7 to 0.

--carried

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SPORTS HALL OF FAME

KANSAS SPORTS HALL OF FAME PROJECT BUDGET AMENDMENT. (DISTRICT VI)

Agenda Report No. 04-0930

On August 6, 2002, the City Council approved the proposal to move the Kansas Sports Hall of Fame (KSHOF) to Wichita. Under the approved package, the City agreed to acquire and renovate a vacant warehouse at 238 North Mead (in Old Town) using revenue bonds issued by the Wichita Public Building Commission (PBC), and to lease the renovated facility to the KSHOF.

On May 6, 2003, the City Council approved the issuance of bonds by the PBC in the principle amount of \$1.7 million to acquire and rehabilitate the existing Old Town property.

On October 31, 2003 the interior building renovation was accepted as Substantially Complete. The KSHOF assumed all responsibilities for security, insurance, and costs for utilities, maintenance, etc. as of November 1, 2003. The West Facade Improvements were accepted as Substantially Complete on March 18, 2004, which completed the renovation project of the old warehouse.

Total construction costs to date are \$982,560 plus \$79,250 for design costs and \$22,490 for financing costs. The City and PBC acquired the Old Town building for a price of \$600,000. The balance leaves \$15,700 remain unspent in the project fund.

The City has received a request from the KSHOF asking to use the remaining project funds to lay carpet in the areas of the building that would showcase displays currently on bare concrete floors. They have received a quote from the Project's carpet supplier, Stuart & Associates, for \$24,771 for this purpose. The difference will be paid by KSHOF.

The Public Building Commission (PBC) has issued bonds in the principle amount of \$1.7 million to acquire and rehabilitate the existing Old Town property and lease it to the City of Wichita, who subleases it to the KSHOF. The City is responsible for paying rent equal to the bond payments, and expects to collect revenue for such payments from KSHOF through sublease payments.

The Sports Hall of Fame property is deeded to the Wichita Public Building Commission and leased to the City of Wichita, then subleased to the KSHOF, under the terms of the PBC bond documents. As lessee, the City has authority to direct the use of remaining bond funds.

Motion--

Mayans moved that the amendment of the Kansas Sports Hall Of Fame Project budget to allow the remaining project funds to be used towards the purchase and installation of carpet from Stuart & Associates be approved. Motion carried 7 to 0.

--carried

DAMAGE CLAIMS

APPROVAL OF DAMAGE CLAIMS.

Agenda Report No. 04-0931

Kansas Gas Service has had pending for various amounts of time a total of 12 different claims of KGS line damage resulting from City crews working on water and sewer repairs and original installations. Each has a point of significant factual or legal dispute that has, to date, forestalled resolution.

It is in the best interest of both entities to resolve these claims upon grounds of reasonable compromise. KGS and the City of Wichita are, and will continue to remain, partners in the provision of essential services to the residents of the City of Wichita. Taken as a whole, these good faith matters of dispute are susceptible to a collective resolution, and representatives of each Staff have negotiated a proposed agreement that both deem to be beneficial.

The proposed resolution calls for payment by the City of \$31,465.41. This amounts to 68% of the original claim amounts. Payment would be from the tort claims fund.

The Law Department and Water Department negotiated the resolution. The Law Department recommends passage. Payment will be exchanged for a standard form release.

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Motion--
--carried

Mayans moved that the payment of the claims for the negotiated sum be authorized. Motion carried 7 to 0.

ORDINANCES

SECOND READING ORDINANCES: (FIRST READ SEPTEMBER 14, 2004)

- a) Nuisance abatement assessments – cutting weeds and lot cleanup.

ORDINANCE NO.46-243

1. An Ordinance making a special assessment to pay for the cost of cutting weeds in the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

ORDINANCE NO.46-244

2. An Ordinance making a special assessment to pay for the cost of abating certain public health nuisances (lot clean up) under the provision of Section 7.40.050 of the Code of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- b) ZON2004-20 - generally located one block east of the Douglas Avenue-West Street Intersection, more specifically 300-feet northeast of the Douglas Avenue-McComas Avenue Intersection. (District VI)

ORDINANCE NO.46-245

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2004-20

- c) (ZON 2003-31) - located on the north side of K-42 Highway and West of Maize Road. (District V)

ORDINANCE NO.46-246

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2003-31

- d) Animal maintenance.

ORDINANCE NO.46-247

An Ordinance amending Sections 6.12.010, 6.12.020, 6.12.030, 6.12.040, 6.12.050, 6.12.060, 6.12.070, 6.12.080, 6.12.085, 6.12.090 and 6.12.100 and enacting sections 6.12.045 and 6.12.095 of the Code of the City of Wichita, Kansas pertaining to animal maintenance, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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- e) Residential Building Code (Title 18.06).

ORDINANCE NO.46-248

An Ordinance creating new Section 18.06.245 of the Code of the city of Wichita, Kansas, and pertaining to the Residential Building Codes of the City of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- f) Mechanical Code (Title 22).

ORDINANCE NO.46-249

An Ordinance amending Section 22.04.200 of the code of the City of Wichita, Kansas, and repealing the original of said amended section, both pertaining to the air conditioning, refrigeration and warm air heating codes of the city of Wichita, Kansas, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- g) Grove left turn lane at First Street. (District I)

ORDINANCE NO.46-250

An Ordinance declaring the intersection of First Street at Groove (472-84095) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

- h) ZON 2004-13 - located west of West Street and on the north side of MacArthur Road.
(District IV)

ORDINANCE NO.46-251

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, read for the second time. Mayans moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans. ZON 2004-13

PLANNING AGENDA

Motion--carried

Mayans moved to approve the Planning Agenda as presented. Motion carried 7 to 0.

ZON2004-00032

ZON2004-00032-ZONE CHANGE FROM LIMITED INDUSTRIAL TO GENERAL COMMERCIAL. GENERALLY LOCATED AT THE SOUTHEAST CORNER OF DOUGLAS AND LULU, 1401 E. DOUGLAS. (DISTRICT I)

Agenda Report No. 04-0932

MAPC Recommendations: Approve. (9-0)

MAPD Staff Recommendations: Approve.

The applicant is requesting to rezone a 0.30-acre site from "LI" Limited Industrial to "GC" General Commercial. This is a down zoning request in which the current zoning is less restrictive than the

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requested zoning. The application area is located on the southeast corner of Douglas and Lulu, and is developed with a two story commercial building, built in 1925.

Purchasers of the application area plan to renovate the building for office uses on the first floor, and four apartment units on the second floor. The "LI" zone does not permit residential uses, requiring this application for a zone change. The applicant also owns the "LI" zoned parcel south of the application area, across the alley, and plans for 22 total parking spaces on the site.

All properties surrounding the application area are zoned "LI". Numerous properties within several blocks in all directions retain legal nonconforming use status for residences. Four blocks west of the application area lies the "OT-O" Old Town Overlay district, which permits upper floor residences in "LI" base zoning. Immediately north of the application area, across Douglas, is a new infill building with a retail use, within a block of retail uses. South of the application area is a vehicle service use; east of the application area are warehouse, office, and retail uses; west of the application area are retail, warehousing, and institutional uses.

Staff has not been contacted by neighbors or the general public regarding this request. At the MAPC hearing on August 19, 2004, no neighbors or members of the public voiced concerns. On this date, MAPC recommended approval of the zone change (9-0).

Motion--
--carried

Mayans moved to concur with the findings of the MAPC and place the Ordinance establishing the zone change on first reading. Motion carried 7 to 0.

ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2004-00032

CUP2004-30

CUP2004-30 DP277, ASSOCIATED WITH ZON2004-35-CREATION OF THE BRUCE BROWN PROPERTY COMMUNITY UNIT PLAN; AND ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED COMMERCIAL. GENERALLY LOCATED ON THE EAST SIDE OF GREENWICH ROAD APPROXIMATELY ONE-FOURTH MILE SOUTH OF 21ST STREET NORTH. (DISTRICT II)

Agenda Report No. 04-0933

MAPC Recommendations:	Approved, subject to platting within 1 year and conditions. (9-0)
MAPD Staff Recommendations:	Approved.
DAB Recommendations:	Will hear 9-13-04.

The applicant is requesting to create DP-277 Bruce Brown Property Community Unit Plan, a 70-acre development with 12 parcels located east of Greenwich Road approximately one-fourth mile south of 21st Street North. The property is located partly in the City of Wichita and partly in the unincorporated area of Sedgwick County.

Five parcels, ranging from one acre to 1.6 acres in size, are located along Greenwich Road. A proposed interior street loops through the development and the remaining seven parcels have access off this interior street. Two of the parcels, Parcel 11 and Parcel 12, are long narrow parcels that back onto the right-of-way of K-96. Two large reserves (Reserve A, 10+ acres; Reserve B, 6+ acres) are included to handle significant drainage requirements across the tract.

Proposed uses are those permitted by right in "LC" except group homes; correctional placement residences; vehicle storage yards; vehicle repair, general; outdoor storage; pawn shops; taverns; nightclubs; asphalt or concrete plants; adult entertainment. Maximum building coverage varies from 20 percent to 30 percent and averages 24 percent. Maximum gross floor area is the same for the five parcels along Greenwich Road. It would be allowed to increase for hotel or motel use to 40 percent, and not be restricted for hotel or motel use on one parcel along Greenwich. Maximum number of

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buildings is unspecified. Residential densities are limited to 18 dwelling units per acre for Parcels 5, 11 and 12. Maximum building height would be 35 feet along Greenwich except for one parcel for hotel or motel use, which could be 55 feet. Other parcels would be 55 feet. Setbacks would be 35 feet along the streets and the north property line and 100 feet on the south property line.

Architectural consistency is required between parcels along Greenwich and for buildings within Parcel 2, Parcel 4, Parcel 6 and Parcel 10. Predominately metal facades are prohibited on all parcels except Parcels 11 and 12 if used for warehouse, self-service storage. Landscape palette, lighting and signage would be consistent for all parcels except Parcels 5, 11 and 12. Masonry screening walls would be required on exterior property lines per Unified Zoning Code unless parcels are developed with residential use. Screening and landscape buffer requirements are required for commercial use adjacent to any residential use; screening and landscape buffers are also required for multi-family use adjacent to "TF-3" Two-family Residential or more restrictive residential zoning. Landscape street yards are required along Greenwich and the interior loop street that is designated as a collector street.

All freestanding signs are to be monument type signs spaced a minimum of 150 feet apart. One tall sign, 45 feet in height and a maximum sign face of 325 square feet, is requested along K-96. Two signs at the major entrances on Greenwich are requested at 30 feet in height and 300 square feet in size; remaining signs for the parcels along Greenwich would be 20 feet in height and 200 square feet in size, subject to an overall limitation of no more than 0.8 x lineal frontage of sign face square footage along Greenwich. On the collector street, signage would be up to 15 feet in height and 100 square feet in size, not to exceed 0.5 x lineal frontage. Window signage is limited to 25 percent of the window area. Off-site and portable signs are prohibited.

Cross-lot circulation is required of all adjacent commercial parcels and a pedestrian circulation plan is required for all parcels.

The site is currently a large estate, bordered by K-96 on the east and an abandoned railroad track on the south. Also, a 100-foot easement for an electric transmission line covers the southern 100 feet of this tract.

Most of the surrounding area is transforming into a highly developed corridor along 21st Street North and Greenwich from K-96 southward. The property to the west, DP-274 Oak Creek and DP-266 The Woodlands is approved for a mixed-use development split fairly evenly between commercial (53 acres), office (41 acres) and residential (40 acres). The commercial has added prohibitions on convenience stores with gas islands and service stations on all but three parcels, and lower maximum building heights of 35 feet except for office parcels that are increased to 45 feet. The property to the southwest is zoned "GI" General Industrial and is an existing concrete plant. The property to the north and east is zoned "SF-5". The strip along 21st Street North is zoned "LC" and governed by P-O #128 for commercial use. A request for rezoning and a C.U.P. has been filed for this property. More commercial development is occurring between 21st Street North and K-96, including a SuperTarget on the northwest corner of the 21st/Greenwich intersection. A large medical facility is being constructed on property zoned "GO" east of K-96. An abandoned railroad tract separates the property to the south, which is zoned "SF-20" Single-family Residential and "TF-3". The "TF-3" tract is part of a mixed residential/church development, Chapel Hill Subdivision.

At the MAPC meeting held August 19, 2004, there was one speaker in support of approval. No protests have been received. The case will be heard at the District II Advisory Board on September 13, 2004. The MAPC voted (9-0) to approve subject to the following conditions:

- A. APPROVE the zone change (ZON2004-35) to "LC" Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-277), subject to the following conditions:
 - 1. The applicant shall guarantee for a continuous accel/decel lane and southbound center left-turn lane at major openings on Greenwich Road at time of platting.
 - 2. The applicant shall guarantee proportionate share of traffic signalization for major openings at the time of platting.

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3. The C.U.P. shall allow for the connection of the interior collector street to the development to the north and or east.
4. Specify that adding a Conditional Use would require a C.U.P. amendment. (GP #3 and GP #23)
5. Revise Proposed Uses for Parcels 5, 6, 11 and 12 to exclude correctional placement residences. Hotel or motel use would be permitted for Parcels 5, 6, 11 and 12 subject to the supplemental use requirements of the Unified Zoning Code, except a waiver of the arterial street requirement is approved. Self-storage warehouse would be permitted for Parcels 11 and 12 subject to the supplemental use requirements of the Unified Zoning Code , except a waiver of the continuity with less restrictive zoning and the arterial street requirements is approved.
6. Revise building heights to 35 feet for Parcels 1, 3, 7, 8 and 9 except that one parcel may be allowed a height of 55 feet.
7. Add building setbacks of 35 feet to the east and 100 feet to the south C.U.P. boundaries.
8. Add to General Provision #3: "See General Provision #25."
9. Add to General Provision #3: "The uses of convenience store with gas islands, service station, and vehicle service or repair shall be limited to a combined maximum of two such uses, and these uses shall be restricted to placement within Parcels 1, 2, 3, 4, 7, 8, 9 or 10. Drive-in or drive-through facilities shall not be permitted within 200 feet of residentially zoned property or facing residential districts."
10. Include in General Provision #8D: "whether interior or exterior".
11. Add to General Provision #8F: "Maximum number of freestanding signs on Greenwich shall be seven."
12. Add to General Provision #8G: "and not exceed 0.5 times lineal street frontage."
13. Add to General Provision #10A: "Buildings on Parcels 1, 3, 7, 8 and 9 together as a group shall have similar predominant exterior building materials, unifying architectural characteristics, and share a similar color palette."
14. Add to General Provision #17A: "single-family or two-family use."
15. Add to General Provision #19: that connects buildings to arterial and collector sidewalks and to adjacent buildings."
16. Add to General Provision #22: " and collector streets. The C.U.P. must ensure that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping."
17. Change General Provision #24: "The maximum gross floor area shall be increased to 40 percent for Parcels 2, 4, 5, 6, 10, 11 and 12 for motel or hotel uses, except that for one parcel it shall be allowed to increase above 40 percent, subject to compliance with Unified Zoning Code and other C.U.P. requirements including but not limited to setbacks, heights, parking, and landscaping."
18. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
19. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
20. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
21. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-277) includes special conditions for development on this property.
22. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
23. Add General Provision #25: "Tavern and drinking establishment use shall be limited to a combined maximum of three such uses within the entire C.U.P., subject to the supplemental use requirements of the Unified Zoning Code."

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Motion--

Mayans moved that the findings of the MAPC be adopted; the zone change and CUP subject to the condition of platting within one year and the recommended conditions be approved and the Planning Department be instructed to place the Ordinance on first reading when the plat is forwarded to the City Council. Motion carried 7 to 0.

--carried

SUB2004-66

SUB2004-66-PLAT OF WOODLAND LAKES ESTATES FOURTH ADDITION, LOCATED NORTH OF HARRY AND WEST OF 127TH STREET EAST. (DISTRICT II)

Agenda Report No. 04-0934

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

This site, consisting of 56 lots on 23.2 acres, is a replat of a portion of Woodland Lakes Estates Third Addition. This site is located within Wichita's city limits and is zoned SF-5, Single Family Residential District.

Petitions, 100% percent, and a Certificate of Petitions have been submitted for water, drainage, sewer and paving improvements. A Restrictive Covenant was submitted to create a homeowner's association to provide for the ownership and maintenance of the reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--

Mayans moved that the documents and plat be approved; the necessary signatures be authorized and the Resolutions adopted. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-520

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89788 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-521

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89789 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-522

Resolution of findings of advisability and Resolution authorizing construction of Lateral 346, Four Mile Creek Sewer, 468-83589 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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RESOLUTION NO. 04-523

Resolution of findings of advisability and Resolution authorizing improving Bracken Circle serving Lots 1 through 14, Block 1 from the south line of Zimmerly to and including the cul-de-sac; Zimmerly Court serving Lots 15 through 32, Block 1, from the south line of Zimmerly to and including the cul-de-sac, 472-83716 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-524

Resolution of findings of advisability and Resolution authorizing improving Zimmerly from the west line of Lot 44, Block 1, Woodland Lakes Estates 4th Addition, to the east line of Lot 56, Block 1, Woodland Lakes Estates 4th Addition; Zimmerly Court serving Lots 45 through 52, Block 1, Woodland Lakes Estates 4th Addition, from the south line of Zimmerly to and including the cul-de-sac; Zimmerly Court serving Lots 31 through 34, Block 4, Woodland Lakes Estates 3rd Addition, from the north line of Zimmerly to and including the cul-de-sac; Zimmerly Court serving Lots 33 through 43, Block 1; Woodland Lakes Estates 4th Addition, from the south line of Zimmerly to and including the cul-de-sac; with a sidewalk on one side of Zimmerly from the west line of Lot 44, Block 1, Woodland Lakes Estates 4th Addition, to the east line of Lot 56, Block 1, Woodland Lakes Estates 4th Addition, 472-83718 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-525

Resolution of findings of advisability and Resolution authorizing Zimmerly from the east line of lot 43, Block 1, Woodland Lakes Estates 4th Addition, to the west line of 127th Street East. Sidewalk on one side of Zimmerly from the east line of Lot 43, Block 1, Woodland Lakes Estates 4th Addition, to the west line of 127th Street East, 472-83719 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-526

Resolution of findings of advisability and Resolution authorizing constructing a northbound left turn lane on 127th Street East at Zimmerly, 472-83720 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-527

Resolution of findings of advisability and Resolution authorizing improving Zimmerly, from the west line of Lot 20, Block 1 to the west line of Bracken, 472-84101 (south of Lincoln, west of 127th Street East), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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SUB2004-89

SUB2004-89-PLAT OF EVERGREEN FIFTH ADDITION, LOCATED ON THE SOUTH SIDE OF 29TH STREET NORTH, WEST OF MAIZE ROAD. (DISTRICT V)

Agenda Report No. 04-0935

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (11-0)

This unplatted site, consisting of 36 lots on 13.8 acres, is located within Wichita's city limits and is zoned SF-5, Single Family Residential District.

Petitions, 100% percent, and a Certificate of Petitions have been submitted for paving, sewer and water improvements. A Restrictive Covenant was submitted to create a homeowner's association to provide for the ownership and maintenance of the reserves. The Restrictive Covenant also provides four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--
--carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized and the resolutions adopted. Motion carried 7 to 0.

RESOLUTION NO. 04-528

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System number 448-900013 (south of 29th Street North, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-529

Resolution of findings of advisability and Resolution authorizing construction of Lateral 11, Main 7, Northwest Interceptor Sewer, 468-83900 (south of 29th Street North, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-530

Resolution of findings of advisability and Resolution authorizing constructing a left turn lane to serve the west bound left-turn movement from 29th Street North to Parkdale, 472-84102 (south of 29th Street North, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

RESOLUTION NO. 04-531

Resolution of findings of advisability and Resolution authorizing improving Parkdale from the south line of Lot 20, Block 1, to the south right-of-way line of 29th Street North and on the Parkdale Courts (4) to and including the cul-de-sacs. Sidewalk to be constructed on the east side of Parkdale, 472-84103 (south of 29th Street North, west of Maize), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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AIRPORT AGENDA

Motion--carried Mayans moved that the Airport Agenda be approved as presented. Motion carried 7 to 0.

JABARA AIRPORT AIRFIELD PAVEMENT REHABILITATION, COLONEL JAMES JABARA AIRPORT.

Agenda Report No. 04-0936

Airport Development is included in the approved Capital Improvement Program and will be used for an Airfield Pavement Rehabilitation project.

Airfield pavements are showing signs of deterioration. A pavement rehabilitation project will take corrective action and extend the life of the pavement.

Staff has prepared a grant application for the proposed work.

A grant from the Kansas Department of Transportation (KDOT) will be applied for, and if received, will cover half of the project cost. General Obligation bonds paid for with Airport Revenue will fund the portion that the grant does not cover. The total project cost is \$210,000.

Motion-- Mayans moved that the project be approved; the resolution adopted; the grant application and receipt of
--carried funds approved and the necessary signatures authorized. Motion carried 7 to 0.

RESOLUTION NO. A 04-006

A Resolution declaring that a public necessity exists for, and that the public safety, service and welfare will be advanced by, the authorization of certain capital improvements to the Colonel James Jabara Airport Facility; and setting forth the nature of said improvements; the estimated costs thereof; and the manner of payment of same, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

HOUSING AGENDA

Motion--carried Mayans moved that the Housing Agenda be approved as presented. Motion carried 7 to 0.

2003/2004 HUD REVISIONS OF THE 2003 AND 2004 HUD CAPITAL FUND GRANT BUDGETS.

Agenda Report No. 04-0937

The Department of Housing and Urban Development (HUD) makes modernization fund allocations to local housing authorities based on calculations using various characteristics of each housing authority. Since 1992, HUD has awarded modernization funds to the City of Wichita Housing Authority through the Comprehensive Grant Program. Beginning in 2000, Capital Fund Program modernization funds were awarded to update units and management systems in the Public Housing Division. HUD regulations allow a housing authority to revise its approved annual budget when changes to the budget are required due to construction and administrative cost changes, HUD Notices, disasters, and emergencies outside the control of the housing authority.

The proposed revisions have been approved by HUD in the current Capital Fund Five-Year Plan. The 2003 grant funding allocation of \$1,091,565, was made in two separate increments of \$901,220 and \$190,345. The major revision to the first increment of the 2003 budget is to increase the line item for the Housing Services Office building addition project from \$275,000 to \$380,000. The second increment of the 2003 budget is revised to provide an additional \$45,000 for the building project. The increase to the Capital Fund Budget for the office building addition is the result of decreased Section 8 Program funding available for the office project. The 2004 budget is being revised to reflect the actual funding of the 2004 Capital Fund Grant in the amount of \$1,049,368.

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The proposed revisions do not change the total amount of the 2003 and 2004 HUD allocated Capital Fund Grants and do not involve any local funding.

Motion--
--carried

Mayans moved that the revisions of the 2003 and 2004 HUD Capital Fund Grant Budgets be approved. Motion carried 8 to 0.

ACOP

ADMISSIONS & CONTINUED OCCUPANCY POLICY (ACOP).

Agenda Report No. 04-0938

Public housing authorities are required by existing HUD regulations to adopt and maintain admissions, occupancy and waiting list policies. The last time that Public Housing revised its Admissions & Continued Occupancy Policy (ACOP) was on November 18, 2003.

This action will revise two aspects of the Admissions & Continued Occupancy Policy. The first is a revision to the Repayment Agreement Policy, which will allow Staff to take action immediately when a resident fails to make a monthly rent payment, as opposed to waiting for three payments to go unpaid. As a result of a January 1, 2004 HUD policy change which reduces the minimum rent amount from \$50 to \$0, the Wichita Housing Authority is no longer required to recognize the 90-day hardship period mandated by the Quality Housing and Work Responsibility Act of 1998 (QHWRA).

The second change affects income verification procedures. Historically, HUD allowed an applicant/client's financial institution assets to be documented using the client's financial institution statements. However, in an effort to standardize verification procedures for income and expense documentation to be used for rent calculations, HUD has directed housing authorities to make efforts to use documentation received directly from a third party and only use client records as a secondary resource. In a March 9, 2004 Verification Guidance, HUD provided for an exception to the third party verification requirement. If it would not be cost effective to incur verification fees or use the housing authority's administrative staff time to facilitate the direct third party verification, housing authorities can now establish a reasonable threshold, above which direct third party verification is required, and below which client records may be accepted as documentation. These thresholds must be included in the housing authority's ACOP. The Wichita Housing Authority staff believes that a direct third party verification for all financial institution accounts would be an administrative burden and not cost effective for the WHA or local financial institutions. Staff recommends that the threshold should be set at balances larger than \$5,000 to justify direct third party verification. On balances of \$5,000 or less, reasonable verification will be the use of financial institution statements provided by the client. The Housing Advisory Board has reviewed both revisions and recommends approval.

This policy change will allow Staff to reduce the tenant accounts receivables.

Motion--
--carried

Mayans moved that the Admissions and Continued Occupancy Policy revisions for the administration of the Public Housing Program be reviewed and approved. Motion carried 8 to 0.

2005 SECTION 8

2005 SECTION 8 (S8) VOUCHER GRANT REQUISITION FOR PARTIAL PAYMENT OF ANNUAL CONTRIBUTIONS.

Agenda Report No. 04-0939

The Department of Housing and Urban Development (HUD) requires that the Wichita Housing Authority (WHA) annually submit Section 8 Voucher budgets for approval by HUD. The budget estimates the housing assistance and administrative fees necessary to accommodate the number of Section 8 housing assistance vouchers HUD has allocated for the WHA. The Section 8 Voucher program allows a client to locate his or her own rental housing unit and WHA subsidizes the rent through housing assistance payments to the landlord based on the client's household income.

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Listed below is a schedule of the “funds required” to complete the 2005 grant year for the Voucher program. The budget will be totally funded by HUD with funds allocated for the Wichita Housing Authority.

Section 8 Voucher Budget

Family Self Sufficiency Coordinator	\$ 106,991
Housing Assistance Payments	\$11,689,270
Administrative Fees	\$ 1,228,522
Hard to House Fees	\$ 37,500
Audit Costs	\$ 6,000
Total Funds Required	\$13,068,283

The Voucher Budget is based on providing 12 months of housing assistance for 2,366 families or single individuals.

Wichita Housing Authority Board approval is required for grant submittal.

The budgets are completely funded by HUD grants. There is no impact on the City’s non-federal budget.

Motion--
--carried

Mayans moved that the requisition for partial payment of annual contributions be approved and the necessary signatures for submittal to HUD be authorized. Motion carried 8 to 0.

CITY COUNCIL

BOARD APPTS.

BOARD APPOINTMENTS.

Council Member Fearey	Council Member Fearey stated that Jaime Lopez was appointed to the Juvenile Corrections Advisory Board in error and needs to be appointed to the Community Corrections Advisory Board.
Mayor Mayans	Mayor Mayans requested that Council Member Fearey be appointed as the voting delegate to the League of Kansas Municipalities Annual Conference in Overland Park on October 5, 2004.
Council Member Martz	Council Member Martz requested that Jerry Hoggatt be appointed to DAB V.
Motion--carried	Mayans moved that the appointments be approved. Motion carried 7 to 0.

VOTING DELEGATES **SELECTION OF NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING VOTING AND ALTERNATE VOTING DELEGATES.**

The City of Wichita may select one Voting Delegate and one Alternate Voting Delegate to represent the City in the conduct and management of the affairs of the National League of Cities at the Annual Congress of Cities Indianapolis, Indiana (Business Meeting) December 4, 2004.

Motion--
--carried

Mayans moved that the Council Member Brewer be appointed as the voting delegate and Council Member Martz as the alternate voting delegate. Motion carried 7 to 0.

TRAVEL EXPEND.

APPROVAL OF TRAVEL EXPENSES FOR MAYOR FOR SISTER CITIES OFFICIAL VISIT TO KAIFENG, CHINA, OCTOBER 15-23, 2004

Motion--carried

Brewer moved that the travel expenditures be approved. Motion carried 5 to 1, (Lambke no, Fearey momentarily absent).

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*****Mayor Mayans requested that the New Business Items be addressed before the Unfinished Business Items. Action is shown in Agenda order*****

UNFINISHED BUSINESS

ADA COMPLIANCE CITY BUILDINGS AND FACILITIES-AMERICANS WITH DISABILITIES ACT COMPLIANCE. (DEFERRED AUGUST 17, 2004)

Chris Carrier

Interim Director of Public Works reviewed the Item.

Agenda Report No. 04-0831B

(Council Member Schlapp momentarily absent).

Many of the City's buildings and facilities do not meet the requirements of the Americans with Disabilities Act (ADA) and are required by Federal Law to be brought into compliance.

Under the Americans with Disabilities Act (ADA) of 1990, the City of Wichita is required to bring buildings, facilities and programs that do not meet the requirements of the law into compliance. The City has on new construction projects met or exceeded all requirements of the ADA. The existing buildings and facilities, and programs as currently offered are not in full compliance. Since the enactment of the law, the City has made many upgrades to existing buildings and facilities but we are still not in complete compliance with all buildings and facilities constructed before 1990. This project will begin the process of bringing the remainder of the facilities into compliance, and insuring that programs are offered in an accessible manner.

A Request for Proposal is being developed to solicit responses from qualified firms interested in assisting the City to develop a Transition Plan for bringing existing buildings/facilities/programs into ADA compliance. The City's ADA committee will use this information to prioritize the required modifications into a separate project list.

This project will fund the Transition Plan and begin the required modifications. Staff will determine the need for additional professional services regarding the coordination of plans and specifications once the projects are defined by the Transition Plan.

Funding for the project is budgeted in the 2004-2013 Capital Improvement Program (CIP) at \$150,000 per year for a total of \$1.5 million. The project is being initiated for an estimated \$200,000 for construction and \$100,000 for the Transition Plan for a total of \$300,000, which is the amount, budgeted for 2004 and 2005 only.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Mayans moved that the project be approved; the Bonding Resolution adopted; Staff be authorized to issue Requests for Proposals for a Transition Plan of existing buildings/facilities/programs for ADA compliance and the necessary signatures authorized. Motion carried 7 to 0.

--carried

RESOLUTION NO. 04-532

A Resolution finding it necessary to conduct a survey of existing city buildings and facilities to determine what modifications are required to bring each such building and/or facility in compliance with current ADA Accessibility Guidelines and authorizing the issuance of bonds by the City of Wichita at large to pay all or a portion of the costs of such survey and such modifications, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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FOP

FRATERNAL ORDER OF POLICE FACT-FINDING. (DEFERRED AUGUST 31, 2004)

Kelly Rundell

Senior Assistant City Attorney reviewed the Item.

Agenda Report No. 04-0856B.

(Council Member Gray momentarily absent).

The City of Wichita and the Fraternal Order of Police have not negotiated a contract to succeed the contract, which expired on December 19, 2003. After an impasse in negotiations was declared and mediation was unsuccessful, a fact-finder was appointed; the fact-finder issued a report on June 24, 2004.

By law, the City Council, or a duly authorized committee of the council, is to conduct a hearing in which the parties are to explain their positions. Following the hearing, the City Council must determine the terms of a one-year contract, effective December 20, 2003 through December 17, 2004. The standard, which the City Council must use to make its decision, is what it deems to be in the public interest, including the interest of the public employees involved.

The financial implications will be presented at the hearing.

The hearing and decision criteria are mandated by K.S.A. 75-4332.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Mayor Mayans

Mayor Mayans stated that first, and foremost, we are happy very happy that an agreement has been reached and that the Fraternal Order of Police has voted to support the contract as proposed. This contract is truly a win/win situation for everyone.

This contract was very difficult to finalize for various reasons, but never did our support for the Police Officers waiver. We appreciate the work that our law enforcement officials do every day and the difficulty in finalizing this contract should not be seen as a failure to demonstrate that appreciation financially, but a demonstration of how seriously we take our responsibility given to us by the citizens of this community to oversee the financial management of this organization.

The contract voted on today is a three-year contract. The three-year contract agreement will enable the City to plan its financial future, which will not be an easy task. The issue that is now before us is funding the contract. When the Fact Finder's Report was presented to the Council, City Staff did not recommend its acceptance because it would be a tremendous hit to the City's budget, one that had not been anticipated. That has not changed. While an increase was anticipated in the budget, it was not budgeted at the level that this contract requires.

With the 3% salary increase, along with increases in the uniform allowance, longevity pay, pay for college degrees, and other enhancements, the budget impact of this contract is approximately \$376,000 in 2004.

The City Council and Staff will begin reviewing the options before us to fund this contract. The local economy is rebounding, however it is not rebounding at the rate or speed that was anticipated. If the economy continues at its current rate of growth, we will be faced with making some very difficult choices on how to fund the contract.

At this present time, our budget Staff projects that we will end this year with a deficit of more than \$1.5 million. This is due in part to several major sources of revenue forecasted lower than anticipated. With this impending deficit is the knowledge that the impact that the contract makes to the budget is not a one-time incident. The contracts are compounded over time so the amount that we must fund for 2004 increases in 2005 and increases even more than 2006.

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While we are happy that the negotiations are over, we want the community to be aware of the fact that, for the seven of us, the hard part now begins. It is our responsibility, together with Staff, to find the funding to make this contract a reality and at this point, we are unsure as to where that funding is coming from.

We are also working with the assumption that the fire union contract will be resolved at a similar amount as the police union and the civilian employees union and transit employees' union, who settled for lesser amounts will request amounts similar to the police union in the upcoming year.

We need to fund approximately \$600,000 in 2004, \$2.7 million in 2005, and another \$4.7 million in 2006 for this contract and other anticipated labor contracts. The three years combined equals a little more than \$8 million. The options before us are limited. We can:

- Raise revenues. This may require us to consider raising the mill levy for the first time in 11 years.
- Reduce expenditures or reallocate funding priorities. This could include making large programmatic cuts in the budget, for example, the elimination of the school resource officer program or the economic development incentives recently added to the budget, which could seriously hamper our ability to stimulate further economic growth.
- Draw down reserves. While this is the most likely solution for funding the contract agreement in 2004, this is not a desirable solution for future years.

We want to thank the negotiating team for the police union for accepting the random drug tests and the performance-based merit increases. We feel that these were very important issues to be addressed and are pleased that they are a part of the final contract.

We would also like to thank the City Staff for their hard work and efforts during the negotiations.

Finally, we would like to thank the negotiating teams for both sides for their diligence in continuing the negotiations until a contract was reached. It was a long, arduous process, but in the end, we believe that your efforts produced a contract that both sides would support.

Mayor Mayans

Mayor Mayans read the resolution of support:

RESOLUTION NO. 04-536

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA PROVIDING A STATEMENT OF INTENT REGARDING THE FUNDING OF LABOR CONTRACTS

WHEREAS, the City and the Fraternal Order of Police have reached an agreement on a three-year labor contract, and

WHEREAS, the impact of this contract and other labor contracts is anticipated to require-in excess of amounts already budgeted-\$600,000 in 2004, \$2.7 million in 2005, and \$4.7 million in 2006, for a combined total of more than \$8 million for the three years, and

WHEREAS, the Governing Body of the City of Wichita is committed to maintaining the level of general fund reserves at an appropriated level to insure the financial integrity and stability of the City, and

WHEREAS, the Governing Body of the City of Wichita takes seriously the responsibility given to it by the citizens of this community to oversee the management of the finances of the organization, and

WHEREAS, the funding of this and other labor contract presents a challenge to the City that must be wisely considered and affirmatively resolved in the near term and the future, and

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA THAT;

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1. The Governing Body of the City of Wichita, Kansas hereby makes this statement of intent to avoid tax increases or the use of general fund reserves as much as possible to fund any or all of the requirements of the three-year contract with the Fraternal Order of Police, or any other labor contract.
2. The Governing Body of the City of Wichita, Kansas recognizes that the local economy is rebounding, however it is not rebounding at the rate or speed that was anticipated. Unless the economy improves its current rate of growth, the City will, only as a last resort, consider a tax increase or use of general fund reserves to meet the funding requirements of the three-year contract with the Fraternal Order of Police, or any other labor contract.
3. The Governing Body of the City of Wichita, Kansas reaffirms its pledge to maintain general fund reserves at a minimum level of 10% or more.
4. As a further funding alternative, the Governing Body of the City of Wichita, Kansas will also consider reducing expenditures or reallocate funding priorities that could include large programmatic cuts in the City's budget.
5. It is the specific intent of the Governing Body of the City of Wichita to follow the funding priorities outlined in this resolution and that this statement of intent be continued as a matter of faith and trust between the people and the present and future Governing Bodies of the City of Wichita.

Motion--carried

Mayans moved that the Resolution be adopted. Motion carried 7 to 0.

Motion--

Mayans moved that the agreement between the City of Wichita and the Fraternal Order of Police be approved as the Council deems to be in the public interest, including the interest of the public employees involved. Motion carried 7 to 0.

--carried

NEW BUSINESS

INTIMIDATION

ORDINANCE CREATING SECTION 5.15.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CREATION OF THE CRIME OF INTIMIDATION OF A VICTIM OR WITNESS.

Council Member Fearey momentarily absent.

Terry Moses

Wichita Police Department Investigations Division reviewed the Item.

Agenda Report No. 04-0940

Currently, the City of Wichita does not have a City Code that makes it unlawful for a person to prevent another person from calling 911 for assistance. The State of Kansas has enacted State Statute 21.3832 Intimidation of witness or victim. The Police Department wants to discourage people from preventing or interfering with a victim or witness reporting a crime. Often, a victim or witness will attempt to make a report of criminal activity, and request assistance, but are unable to seek help because the perpetrator has destroyed a phone or otherwise interfered or prohibited the witness or victim from reporting the crime to law enforcement. This ordinance, patterned after state statute, creates a new crime of interfering or preventing a victim or witness from reporting a crime.

The creation of this ordinance will allow those interfering or preventing a victim or witness from reporting criminal activity, to be charged with a crime. This ordinance is patterned after similar provisions under state statute, K.S.A. 21-3832 and K.S.A. 21-3831.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

Cybil Strum

Ms. Strum stated that if a victim has been assaulted and it went to trial and a certain person is harassing them, asked that this be part of this ordinance.

Motion--carried

Mayans moved that the Ordinance be placed on first reading. Motion carried 6 to 0, (Fearey absent).

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ORDINANCE

An Ordinance creating Section 5.15.010 of the Code of the City of Wichita, Kansas, pertaining to the creation of the crime of intimidation of a victim or witness, introduced and under the rules laid over.

CITY HALL SECUR. CITY HALL LANDSCAPE AND SECURITY ENHANCEMENTS.

Chief Williams Police Chief reviewed the Item.

Agenda Report No. 04-0942

The current City Hall, located at 455 N. Main, was opened to the public in 1976. The building has not received significant updating to allow for security enhancements. In September 2003, Council approved a contract with Schaefer Johnson Cox Frey Architecture (SJCF) to provide services related to enhancing security and landscaping features to the exterior of City Hall and the auto service tunnel. Since that time, the scope of the work required to complete the project and enhance the needs of City Hall security have grown to include parking lot modifications and redesigning the atrium located on the west side of City Hall.

Through recent analysis of security concerns, Staff has worked closely with SJCF to identify solutions for enhancing security of the City Hall campus. The Architect has been providing consultation and support through the original contract, dated September 16, 2003, after being awarded said contract through request for proposal # FP300035. As a result of ongoing meetings with City Staff, the scope of the project identified under the original contract has changed to include the addition of design and construction changes to the atrium and the parking surfaces. The project to enhance City Hall security has been divided into two phases. Phase one will include the expansion and remodel of the atrium, design modifications and construction on the parking surfaces, design and installation of vehicle barriers at the auto service tunnel, and construction of a new pedestrian approach to the west side of City Hall. Phase two will include design and installation of standoff barriers and additional landscaping work around the exterior of City Hall.

The total cost of the security improvements is estimated to be \$3,031,000. Funding is identified from a variety of sources, including older capital projects funded by cash transfers from other funds, Federal grants and a CIP project (City Hall Campus and Security Modifications). However, there is not currently sufficient funding for all of the improvements. Based on the current design, \$556,000 of additional funds will be needed. Staff will submit the additional funding request for consideration during the next review of the Capital Improvement Program (CIP).

The following table summarizes the funding for the City Hall Landscape and Security Enhancements Project.

<u>Sources</u>		<u>Uses</u>	
		Phase I	
City Hall 1st Floor Remodel Project	\$1,067,000	Atrium/1st Floor	\$1,066,000
City Hall Tunnel Security Project	\$ 88,000	Parking	\$ 407,000
Federal Grant	\$ 320,000	Auto Service Tunnel	\$ 432,000
City Hall Campus Security Mod. (CIP)	\$1,000,000	Southwest Lawn	\$ 383,000
Future CIP Project	<u>\$ 556,000</u>	Phase II	
Total Sources of Funding	\$3,031,000	Remaining Lawn	<u>\$ 743,000</u>
		Total Uses of Funding	\$3,031,000

Council Member Fearey Council Member Fearey inquired about the number of extra Staff needed to run the security in the atrium.

Chief Williams Police Chief Williams explained that they are anticipating approximately 17 positions, which would be similar to private security officers but under the direction of the Wichita Police Department. They would be non-commissioned private security personnel that are assigned to the Wichita Police Department.

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- George Kolb City Manager stated that he has not looked into detail in terms as financing sources.
- Council Member Gray Council Member Gray asked Chief Williams to give a general synopsis of why we need to make the security enhancements, so that the public will have a better understanding.
- Chief Williams Police Chief Williams explained that over the last few years there has been a tremendous change in society in regards to safety and security in government as a whole and that Government is number one on the threat list. By doing the security enhancements at City Hall, it allows them to foster a safe environment for the citizens that come to City Hall, the employees that work at City Hall as well as the elected officials at City Hall. Stated that over the last few years the county has invested in a lot of security enhancements, which impacts the City, such as closing off the tunnel. Stated over the last few years the changing climate in society has mandated and necessitated City Hall in making sure that they are providing a safe working environment for the employees as well as the citizens that are doing business at City Hall.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.
- Council Member Fearey Council Member Fearey stated that her concern is not with the capital improvement changes and thinks that the architects have done a very good job and understands the changes but that her concern is the on-going personnel expense and what the Council is looking at with budget constraints for the next few years. Stated that she is very reluctant to go ahead with this until we are sure that we are going to have the money without cutting other programs that are needed in this City to fund the personnel to go along with this.
- Motion-- Brewer moved that the project be authorized; the amendment to the contract with Schaefer Johnson Cox Frey Architecture be approved and the Bonding Resolution to allow funding for the improvements to the City Hall campus adopted. Motion carried 6 to 1, (Fearey no).
- carried

RESOLUTION NO. 04-533

A Resolution determining the advisability of making certain public improvements in the City of Wichita, Kansas, and setting forth the general nature and the estimated cost of such improvements; authorizing and providing for the making and financing of the improvement in accordance with the findings of the governing body; and directing the publication of this Resolution, presented. Brewer moved that the Resolution be adopted. Motion carried 6 to 1. Yeas: Brewer, Gray, Lambke, Martz, Schlapp, Mayans, (Fearey, no).

WATERWALK

STAR BONDS FOR WATERWALK PROJECT. (DISTRICT I)

- Tom Johnson President of WaterWalk LLC reviewed the overall project and master plan.
- (Mayor Mayans momentarily absent, Vice-Mayor Brewer in the chair).

Agenda Report No. 04-0943

On September 10, 2002, the City Council approved the Development Agreement and Master Plan for the WaterWalk Redevelopment Project, located in the East Bank Redevelopment District in downtown Wichita. On March 25, 2003, the City Council approved a revision of the Site Plan in the Development Agreement, approving the vacation of Lewis Street within the project area and the construction of a new street connecting Waterman and Lewis streets. On September 16, 2003, the City Council approved a revised Master Plan that incorporates a major destination retail facility based on the use of STAR bond financing. On December 2, 2003, the City Council approved amendments to the Development Agreement. The amendments included the use of STAR bonds to finance public improvements relating to the destination retail store, which added a new element not contemplated by the original Development Agreement. The improvements were projected to add approximately \$24 million to the costs to be paid by the City, with the source of funding identified as STAR bond proceeds.

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The revised Development Agreement and Master Plan incorporates the national destination retail store and the approved changes to Lewis and Waterman streets. The revised Master Plan increased the project area to include the area on the West Bank adjacent to the Ice Sports Center and an area under the Kellogg “fly-over” to provide additional surface parking needed for the destination retail store. The increased project area was officially designated as the STAR Bond Area.

The Developer has completed detailed negotiations with and signed a Letter of Intent with a destination retailer: Gander Mountain, a Minnesota-based outdoor sports outfitter with 65 stores nationwide. The Letter of Intent calls for construction of an 88,500 sq. ft. multi-level, mixed-use commercial building at the southwest corner of the WaterWalk area, on the Arkansas River next to the Kellogg freeway. In addition to retail space, the facility will include a lodge-style conference center, a mezzanine restaurant, a deck overlooking the River, a pedestrian bridge and surface parking and other amenities.

The estimated Total Development Cost of the Gander Mountain project is \$14,152,300. The requested City contribution is \$7,000,000, with \$7,152,300 funded by WaterWalk LLC. The City’s contribution, plus up to \$1 million for additional public art, potentially could be funded with STAR bond financing, as follows:

USE OF STAR BONDS

A total not-to-exceed amount of \$8,000,000 in bonding is requested to pay for a portion of the shell building construction, upgrades to the building not covered by the lease revenue, amenities and infrastructure, as well as public art.

State law does not permit the use of STAR bonds to finance construction costs of privately owned or leased buildings. Under the Developer’s proposal, a portion of the building costs will be paid from the City’s contribution. Using its home rule powers, the City may, however, finance its contribution with general obligation (G.O.) bonds. G.O. funding is included in the approved Capital Improvement Program (CIP) for a near-by project that could be used for this project. Upon approval of all statutory steps, STAR bonds would be used to finance eligible costs to finance costs in the near-by CIP project.

Staff has identified the River Corridor project as eligible for STAR bond financing and compatible with the public improvements in the WaterWalk Project. In order to facilitate this arrangement, it will be necessary to amend the STAR Bond Area to include the River Corridor project area.

IMPLEMENTATION SCHEDULE

The developer has a very aggressive schedule to complete the Gander Mountain project, so that the retailer can open on their desired schedule. The proposed implementation schedule is as follows:

September 13, 2004	Initiate design development with design/build team and retailer
October 15, 2004	Lease signed
November 23, 2004	Construction begins
August 10, 2005	Building turned over to Gander Mountain
September 1, 2005	Grand Opening

The Developer has represented to the City that the only way they can meet this schedule is to use the design-build construction method, with the Developer’s general contractor, Key Construction, serving as the design-builder. The Developer anticipates that at least 30% of the construction work will be awarded to minority business enterprise (MBE) subcontractors.

In order for the City to meet this schedule and pay a portion of the project costs (including building construction), the following is required:

- Amend the CIP to combine the River Corridor project and the WaterWalk project and increase the G.O. expenditure authority by \$8 million.
- Amend the existing G.O. bonding resolutions to reflect the combined project and increased expenditure authority.
- Amend the WaterWalk Development Agreement to reflect the changes inherent in the Gander Mountain Project, including the joint use of the Developer’s architect and contractor for both public and private portions of the Gander Mountain improvements.

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- Start the process of authorizing the issuance of STAR Bonds by adopting a resolution setting a date for a public hearing in connection with expansion of the East Bank Redevelopment District.
- Approve expansion of the STAR Bond Area as shown on the map.
- Direct Staff to prepare revisions to Charter Ordinance No. 192. These amendments would be drafted to exempt small stock and stockholders of publicly traded companies (e.g. Gander Mountain) from transfer restrictions and stockholder qualification in the City's second hand dealer licensing regulations, so Gander Mountain may obtain a license to sell used merchandise.

Staff plans to return to Council on October 12, 2004 with development agreement revisions and an ordinance exempting the project from the City's bid law. It is recommended that November 16, 2004 be set as the public hearing on the expansion of the East Bank Redevelopment District to include the revised STAR bond area.

The cost of the STAR bond-funded improvements has been reduced from \$24,309,000 to \$8,000,000 dollars, plus any underwriting and issuance costs. The estimated aggregate cost of the non-STAR bond funded public improvements has not changed.

The maximum total amount of STAR bond financing capacity will be determined by analysis of economic information to be made available by the destination retailer, and by identification of the underwriting requirements of the STAR bond issue. Staff will use the services of a financial consultant, Springsted Public Financial Advisors, to assist in the analysis and bond structuring needed for this task. Springsted is financial advisor to Wyandotte County and performed similar fiscal services for the Kansas Speedway and Village West STAR bond issues. Springsted is also the financial advisor to Sedgwick County, selected through a competitive selection process. The City Council approved the use of Springsted for the STAR Bond project on December 2, 2003.

The aggressive schedule for completing construction of the Gander Mountain Project will require the City to begin disbursing G.O. funds in advance of the issuance of STAR bonds. There is a risk that the City may not be able to issue the STAR bonds, if they are not approved by the State of Kansas, or if purchasers for the STAR bonds cannot be found. In that case, permanent financing of the River Corridor improvements with STAR bonds may be at risk, necessitating a revision to the Capital Improvement Program.

The use of G.O. bond funds for this project must be authorized by a bonding resolution before funds may be utilized to pay any construction costs. The City must follow the statutory procedures to establish the legal authority to issue STAR bonds. These include the adoption and publication of a resolution setting a public hearing on the expansion of the East Bank Redevelopment District to include the River Corridor project area, followed by similar procedures for the adoption of a formal STAR bond plan. The Kansas Secretary of Commerce must approve the STAR bond plan, as well as the inclusion of the River Corridor area as part of the STAR Bond Area. The Law Department will review the necessary agreement amendments, ordinances and resolutions before they are returned to the City Council.

Mayor Mayans

Mayor Mayans asked Mr. Johnson to comment on whether we should put this project up for construction bids.

Tom Johnson

President of WaterWalk LLC explained that in order to accomplish what needs to be accomplished within the time frame, it is almost impossible to take it out for bid with the fact that the private sector is publicly financing a large portion of the building itself. Stated that under some of the statutes of the City it is allowable to enter into a design-build project in order to facilitate that. Stated that while it precludes the opportunity to go out for bids, it is very important from their prospective and from a design-build standpoint between their partners, which are Key Construction and Gossen Livingston Associates, that they make sure that they are following the guidelines of the City in terms of the minority business partner issues. Stated that Key Construction has an excellent record of working with our minority business partners and they are working on a substantial portion of this project.

Brian McLeod

Senior Assistant City Attorney, reviewed the financial aspect of the project.

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- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Karl Peterjohn Mr. Peterjohn stated that the Kansas Taxpayers Network was the only organization, along with himself, that testified in opposition to the changes in state laws that led to Nascar and followed up with the Star Bonds in the subsidized developments in Wyandotte County. Stated that we need to create opportunity for everyone and not just for one development or one group of developers. Stated that he is concerned that the Lewis Street Bridge will not be available once the proposed changes are made. Stated that regarding the interaction with the sales tax, we are looking at the possibility of using additional local sales tax money to finance the downtown arena but here we are talking about taking it off the table and dedicating it for this one project for this one area.
- (Council Member Martz momentarily absent).
- Cybil Strum Ms. Strum stated that she is concerned about this project because of the increased traffic it will create. Asked how much this will cost the taxpayer and what is a Star Bond.
- Mayor Mayans Mayor Mayans explained that Star Bonds are a way to use sales tax revenue that would not otherwise be available anyway but it is available because of increased economic development activity. Stated that the additional sales tax would be used to repay bonds that are used to build the building.
- Council Member Martz Council Member Martz stated that he has had opposition to this project and that if you come up with an objection to anything regarding this plan you are perceived as being opposed to growth of the City and thinks that it absolutely false. Stated that there is no one more interested in the City growing than he is. Stated that he thinks it is mandatory that the Council also be very diligent in how we fund things. Stated that he has concerns with proper bidding procedures and thinks that the Council should continue to follow the proper bidding procedure and not change that process. Stated that he realizes that it would slow the project down but at the same time the Council is mandated to do things the correct way. Stated that one of the objections he has had from the beginning on this project is that the Council agreed to do a particular part of the project but the funding is not in line yet and once again are being asked to do that same thing by using GO Bonds that were not designed for this project and shift GO Bonds from one project, hopefully to be funded later by Star Bonds with no guarantee. Stated that we need to have our financing in line before we approve any additional projects and that this does not make economical sense.
- Council Member Lambke Council Member Lambke stated that he shares some of Council Member Martz's concerns and that his main objection is the use of tax money and to take tax money that is supposed to operate the government and do the things that the government is suppose to do, which is very limited. Stated that the priority on the use of money is one of his main concerns, and that the City is being asked to finance over 50% of Gander Mountain cost with tax money. Stated that 8 million dollars of tax money would fund the entire contract of the police department and that there is considerable concern with the Staff about how they are going to fund the police pay. Stated that he cannot see that giving money to a private company is a higher priority than protecting the public.
- Motion -- Brewer moved that City Council:
- (1) Endorse the choice of Gander Mountain to serve as destination retailer in the WaterWalk Project;
 - (2) approve the recommended amendments to the CIP;
 - (3) adopt the amended bonding resolution authorizing the use of G.O. bond financing for the combined project;
 - (4) give preliminary approval to the enlargement of the WaterWalk STAR Bond Area to include the River Corridor project area, as shown on the map;
 - (5) adopt the resolution setting November 16, 2004, for a public hearing on the expansion of the East Bank Redevelopment District;
 - (6) direct Staff to return with necessary amendments to the WaterWalk Developer Agreement and the approving ordinance required under Charter Ordinance No. 177; and direct Staff to return with necessary amendments to Charter Ordinance No. 192 that would allow Gander Mountain to obtain a license to sell used merchandise.
- carried Motion carried 5 to 2, (Martz and Lambke no).

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RESOLUTION NO. 04- 534

A Resolution authorizing the issuance of certain bonds of the City of Wichita, Kansas to pay the costs of (1) certain public improvements in the redevelopment of the East Bank Redevelopment Area, (2) certain public improvements in connection with the river corridor project, and (3) funding an economic development grant in connection with construction of a facility located in the East Bank Redevelopment Area, and amending certain prior resolutions of the governing body of said City, presented. Brewer moved that the Resolution be adopted. Motion carried 5 to 2. Yeas: Brewer, Fearey, Gray, Schlapp, Mayans, (Martz and Lambke no)

RESOLUTION NO. 04-535

A Resolution stating the City of Wichita is considering the addition of an area to the East Bank Redevelopment District and a substantial change to the District Plan, presented. Brewer moved that the Resolution be adopted. Motion carried 5 to 2. Yeas: Brewer, Fearey, Gray, Schlapp, Mayans, (Martz and Lambke no).

ICE RINK

TRANSFER OF FUNDS TO ICE RINK MANAGEMENT FUND.

Tom Smith

Acting Assistant Director of Finance reviewed the Item.

Agenda Report No. 04-0944

In 1995, the City of Wichita and Canlan Ice Sports of Vancouver, British Columbia entered into a Development and Management Agreement for the construction and operation of the Wichita Ice Sports Center located at Maple and Sycamore in downtown Wichita. The result of this public-private partnership is a state-of-the-art ice skating facility that includes two skating rinks, one NHL-size rink and one Olympic-size with 900 spectator seats, as well as a pro shop, skate rental, concession stand, party room, locker rooms, offices and a restaurant and sports bar overlooking the skating rinks from the second floor. The corporate offices of the Wichita Thunder professional hockey team are also located in the Ice Sports Center, in leased space.

The Wichita Ice Sports Center is a City-owned public recreational facility that is operated by Canlan under the terms of the above-mentioned management contract, whose 15-year term began November 1, 1996. The Ice Sports Center offers daily public skating sessions, youth and adult hockey leagues, learn-to-skate, hockey and figure skating classes and contract ice time for figure skating and speed skating clubs, hockey team practices and special events. Over the years, the Wichita Ice Sports Center has been host to several regional figure skating competitions that bring top figure skaters, their families, officials and media from around the country and Canada.

However, since the attacks of September 11, 2001 and the economic downturn that was especially severe in Wichita, attendance at the Wichita Ice Sports Center has declined, particularly in the area of public skating. Funds available for the payment of ice rink operations has slowly diminished, to the point that it is now necessary to transfer funds to the Ice Rink Management Fund in order to address a short term cash flow shortfall.

Under the terms of the Ice Rink Management Agreement, all revenues received by Canlan Ice Sports in connection with the Wichita Ice Sports Center are considered funds of the City of Wichita and are deposited daily in the City's bank account and credited to the Ice Rink Management Fund. All expenses of any kind incurred by the operation of the Ice Sports Center are likewise expenses of the City of Wichita and are paid from funds accumulating in the Ice Rink Management Fund. To facilitate smooth financial operations, the Management Agreement provides for a working capital advance of \$100,000 that was paid to Canlan at the time operations commenced in 1996. Canlan pays current operating expenses and submits invoices and proof of payment to the City for reimbursement. At the time the management contract is terminated, all funds remaining from the working capital advance will be paid to the City.

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The level of utilization of the Ice Sports Center fluctuates each year with the seasons. Hockey and figure skating are considered winter sports and the months of December, January and February are therefore the busiest months for ice skating. Utilization starts to decline in March until, with a bump in May for River Festival, it bottoms out in July, August and September. With hockey training camps and practices starting, activities start picking up again in October. Financial results follow the same seasonal pattern. During the winter months, revenues significantly exceed expenditures, feeding into a fund balance that is then spent down during the lean summer months. Operations are adjusted to mitigate the negative cash flow during the summer. For example, the ice is removed from the NHL-sized rink during the summer to save on utility costs. But the negative cash flow cannot be entirely avoided.

Since 9-11 and the ensuing lay-offs in the aviation industry, attendance in all categories has declined significantly, with the greatest decline seen in public skate sessions. This is consistent with the general experience in the recreational and entertainment sector. Now that the overall economy is improving, we can hopefully expect to see spending in this area, including ice skating, to increase. In the meantime, a modest transfer of funds to the Ice Rink Management Fund is needed to close a projected cash flow gap.

Canlan Ice Sports is a publicly owned Canadian company whose principal area of business is to develop and operate commercial ice skating facilities throughout Canada and the United States. Canlan has provided the City with its best estimate of the cash flow gap based on a detailed cash flow analysis for the balance of 2004, which shows the maximum cumulative negative cash flow occurring in the month of August and September. Canlan is entitled to a management fee of 5% of gross revenue, payable solely from operating profits. Canlan's management fee accrues during months when operating expenses exceed revenues. To date, Canlan's management fee accrual amounts to approximately \$70,000.

To ensure there are adequate funds in the Ice Rink Management Fund to pay expenses, based on Canlan's cash flow analysis, Staff recommends the transfer of \$100,000 dollars to the Ice Rink Management Fund from the general fund appropriated reserves. This amount will be added to the \$100,000 working capital deposit that was initially made in 1996.

The Project Development and Management Agreement between the City and Canlan Ice Sports, as amended, provides that upon the request of Canlan, the City shall deposit funds in the Ice Rink Management Fund if needed to ensure that adequate funds are available to pay operating expenses in a timely manner, subject to the Cash Basis Law. City Council approval will ensure compliance with the Cash Basis Law and the City's policy requiring Council approval of contractual payments in excess of \$10,000.

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| Council Member Brewer | Council Member Brewer asked why the original request was for \$50,000.00, and now they are asking \$100,000. |
| Tom Smith | Acting Assistant Finance Director explained that it was increased to pay their outstanding bills and leave some money for cash flow until the winter months pick up and their revenue increases. |
| George Kolb | City Manager requested that this Item be deferred and that it is critical that the money be transferred that is being requested. Stated that a portion audit has been done out of his office that determined that there was a need for them to have \$100,000, but there have been some changes that he needs to bring to the Council's attention in terms of the management of this particular operation. Stated that they are attempting to take it out of finance and put it under the parks department so that there is more management discretion from an operational point of view. |
| Karen Walker | City Auditor reported that she was asked to go over and look at Ice Sports, and limited her review to just their cash flow position for what it is today. Stated that she found that there were four outstanding invoices that we did not have enough revenue to pay to Ice Sports and that amount totaled to \$186,000, and some of those bills have been paid by Ice Sports because they did have a little bit of cash reserve, which were bills that they submitted to the City that we have as of September 9 th not paid the entire balances. Stated that because of the cash position that Ice Sports has been in, they have not paid their management fee for this year, which is an additional \$66,000. Stated that when totaled, her findings come to a total of \$252,000 less the \$100,000 cash that they had to begin with. Currently their accounts |

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payable clerk said that they have about \$50,000 in outstanding bills that are due to their suppliers. Stated that this is still the slow time of year for them to collect revenue and when winter comes the company is projecting more cash flow to come in and they will not need the additional help. Stated that she has not had time to do a full operations report but plans on doing an operations audit with the management and address some of the questions and concerns that the Council has expressed today.

- Mayor Mayans Mayor Mayans stated that after visiting with these people, he did not get the feeling that their plan would work, which concerns him. Stated that he cannot not support the \$100,000 today.
- Council Member Martz Council Member Martz stated that we need to take a close look at what suppliers are out there that we do owe money to because we do not want to punish the suppliers.
- Council Member Gray Council Member Gray asked why this issue is just now coming to the Council when they are out of money and why were more proactive measures not being taken.
- Mayor Mayans Mayor Mayans stated that this particular facility since 1995 made money year one and two but since then the profit and loss statement had shown decreasing revenues and no one stepped forward and we were not told about the cash flow situation declining and the potential problems, which could have been addressed four or five years ago. Stated that he had asked Staff if there was anything else other than the golf course situation, where there may be a problem, so that the Council could address it and he was told no. Stated that he has an issue of confidence with the numbers that are being provided to him by some of the Staff members and would like this corrected. Stated that if we need to shut this facility down for a couple of months until things are worked out and do something different before the season picks up, he would be okay with that.
- Council Member Fearey Council Member Fearey stated that she is reluctant to this facility being closed because it would be very difficult to ramp it back up.
- Motion-- Fearey moved that Staff be directed to present to the City Council at the September 28, 2004, Consent/Workshop Agenda, the exact amount of bills owed to the vendors and the vendors names listed, and at that point not including any management fees, for the recommended approval of payment.
- carried Motion carried 7 to 0.

(Unfinished Business Items were presented at this time. Action is shown in Agenda order)

Adjournment Mayans moved to adjourn the regular meeting at 12:34 p.m. Motion carried 7 to 0.

Karen Sublett
City Clerk

Workshop to follow